



# LAW REFORM COMMISSION

*Report and Draft Bill on "Prevention of Food Waste in Mauritius"*

**[LRC\_ R&P 177, December 2023]**

13<sup>th</sup> Floor, SICOM Building II  
Reverend Jean Lebrun Street  
Port Louis, Republic of Mauritius  
Tel: (230) 212-3816/212-4102  
Fax: (230) 212-2132  
E-Mail: [lrc@govmu.org](mailto:lrc@govmu.org)  
URL: <http://lrc.govmu.org>



## About the Commission

THE LAW REFORM COMMISSION OF MAURITIUS consists of –

- (a) a Chairperson, appointed by the Attorney-General;
- (b) a representative of the Judiciary appointed by the Chief Justice;
- (c) the Solicitor-General or his representative;
- (d) the Director of Public Prosecutions or his representative;
- (e) a barrister, appointed by the Attorney-General after consultation with the Mauritius Bar Council;
- (f) an attorney, appointed by the Attorney-General after consultation with the Mauritius Law Society;
- (g) a notary, appointed by the Attorney-General after consultation with the Chambre des Notaires;
- (h) a full-time member of the Department of Law of the University of Mauritius, appointed by the Attorney-General after consultation with the Vice-Chancellor of the University of Mauritius; and
- (i) two members of the civil society, appointed by the Attorney-General.

Under the direction of the Chairperson, the Chief Executive Officer is responsible for all research to be done by the Commission in the discharge of its functions, for the drafting of all reports to be made by the Commission and, generally, for the day-to-day supervision of the staff and work of the Commission.

The Secretary to the Commission is responsible for taking the minutes of all the proceedings of the Commission and is also responsible, under the supervision of the Chief Executive Officer, for the administration of the Commission.

The Commission may appoint staff on such terms and conditions as it may determine and it may resort to the services of persons with suitable qualifications and experience as consultants to the Commission.

# LAW REFORM COMMISSION

**Chairperson** : Mr. Guinness RAMDEWAR, SA, OSK, GOSK [Attorney]

**Chief Executive Officer** : Mr. Sabir KADEL

**Members** : Representative of Judiciary  
[Judge Nicholas F. OH SAN-BELLEPEAU]

Solicitor-General or his Representative  
[Mr. Rajeshsharma RAMLOLL, SC]

Director of Public Prosecutions or his Representative  
[Mr. Abdool Rashid AHMINE]

Mr. Yatindra Nath VARMA [Barrister]

Mr. Nicolas BOULLÉ [Notary]

Mr. Marie Thierry Vincent KOENIG, S.A. [Attorney]

Mr. Mohamed Idbal TORABALLY [Member of Civil society]

Ms. Ashna Devi GUNPUTH [Member of Civil society]

**Secretary** : Mrs. Saroj BUNDHUN

## **Staff & Human Resources**

**Chief Executive Officer** : Mr. Sabir M. KADEL

### **Law Reform Cadre**

**Law Reform Officer/Senior Law Reform Officer** : Ms. Dhan Devi SOOKUR

Mrs. Nishita Devi HORILL-GOPAUL

Ms. Shaseeb MUNGUR

Mr. Ghirish RAMSAWOCK

**Law Reform Intern (Under STM)** : Ms. Hooriyyah Banu RUJUB

### **Administrative Support Staff**

**Secretary to Commission** : Mrs. Saroj BUNDHUN

**Office Superintendent** : Mrs. Marie Roseliette SOOBRAMANIA

**Office Management Assistant** : Mrs. Neelamani BANSRAM  
: Mrs. Kajal RAMDUT

**Senior Office Attendant/Technical Assistant** : Mr. Subhas CHUMMUN

**Driver/Office Attendant** : Mr. Naraindranathsingh JANKEE  
: Mr. Chundunsingh BOODOO

## **EXECUTIVE SUMMARY**

### **Report and Draft Bill on “Prevention of Food Waste in Mauritius” [LRC\_ R&P 177, December 2023]**

Food waste represents a complex and multifaceted issue of immense proportions, demanding urgent attention and action. It is a paradoxical problem that coexists within a world where approximately 690 million people still suffer from hunger, according to the UN’s State of Food Security and Nutrition in the World 2020 report. Globally, nearly one third of all food produced — equating to 1.3 billion tons annually — is wasted or lost, exacerbating the strain on natural resources including water, land, and energy. This wastage contributes to deforestation and increased greenhouse gas emissions, specifically methane, a gas significantly more potent in its global warming potential than carbon dioxide. Economically, the cost of food wastage is staggering, with an estimated global financial loss of \$1 trillion each year. Despite the magnitude of the problem, food waste is often overlooked in policy discourse, even though its mitigation could significantly contribute to the achievement of several United Nations’ Sustainable Development Goals (SDGs) including Zero Hunger, Responsible Consumption and Production, and Climate Action. Tackling food waste calls for a rigorous, multi-tiered approach that spans the entire food production and consumption chain, ranging from improving agricultural practices, enhancing storage and transportation, to changing consumption patterns and improving waste management.

In September 2022, the Law Reform Commission produced an Issue Paper titled “Prevention of Food Waste in Mauritius: an environmental and economic Pandora’s box”. By taking inspiration from other jurisdictions, including the United Kingdom, Spain, the United States, Italy, France, China, South Korea, the Czech Republic, and Denmark, the Commission evaluated the relevant initiatives and legislative strategies that can be implemented in Mauritius to prevent food waste. Following a request from the Attorney General’s Office, in accordance with section 6 (1) of the Law Reform Commission Act, the Commission then consulted relevant stakeholders with regards to the different initiatives and legislative strategies evaluated in the Issue Paper.

Subsequently, by taking into consideration the comments of the stakeholders and other relevant matters, the Commission has finalised a draft bill titled “Prevention of Food Waste Bill”, which is attached to this Report as “Annexe”.

By taking the right steps now, Mauritius can not only reduce food waste but also mitigate its environmental impact and bolster its economy. This urgent and essential reform will be a significant step towards creating a more sustainable and resilient Mauritius.

## A. BACKGROUND

1. The Law Reform Commission produced, in September 2022, an Issue Paper on “*Prevention of Food Waste in Mauritius: an environmental and economic Pandora’s box*”.<sup>1</sup> Following a referral by the Attorney-General’s Office, a draft bill has been prepared with a view to curbing the issue of food waste in Mauritius.
2. As the title of the Issue Paper suggests, the main concern was in regard to food waste. The latter can be defined as the loss of food originally intended for human consumption that is lost to any part of the food chain.<sup>2</sup> It is rightly labelled as an environmental and economic Pandora’s box since it is a worldwide phenomenon which entails severe economic, social, and environmental impacts. It notably contributes to the emission of greenhouse gas.
3. Food waste refers to the discarding or loss of edible food items throughout the various stages of the food supply chain, which includes production, processing, retailing, and consumption. It represents a significant economic loss. Resources invested in food production, such as labour, capital, and energy, are wasted when the food is not consumed. It contributes to environmental degradation. Furthermore, the inefficiencies in the food supply chain caused by waste can influence market dynamics, potentially leading to increased food prices, thereby exacerbating issues of affordability and access for lower-income populations. The production of wasted food uses substantial amounts of water, land, and energy, and its decomposition in landfills generates greenhouse gases, notably methane, a potent contributor to climate change. It also indicates inefficiencies in the food supply chain. Reducing food waste could improve overall resource use efficiency and food system sustainability. With millions of people worldwide suffering from food insecurity and malnutrition, the ethical implications of wasting edible food are profound. Food waste signifies a failure in distributing food resources efficiently and equitably.

---

<sup>1</sup> Issue Paper of the Law Reform Commission titled “Prevention of Food Waste in Mauritius: an environmental and economic Pandora’s box” [LRC\_ R&P 166, September 2022]

<sup>2</sup> *Ibid*

## B. UNITED NATIONS’ AGENDA FOR SUSTAINABLE DEVELOPMENT

4. The Member States of the United Nations adopted, in 2015, the 2030 Agenda for Sustainable Development. There are 17 Sustainable Development Goals (SDGs) in the 2030 Agenda, which require urgent attention by all the Member States. Among the 17 SDGs, Goal 12 refers to ensuring sustainable consumption and production patterns.<sup>3</sup> In line with Goal 12.3, countries, including Mauritius, were urged to take actions to halve food waste by 2030.
5. Accordingly, many countries have implemented a number of measures and innovative practices which translated into structured legal framework with the aim to curtail food waste and to, ultimately, achieve SDG 12.
6. However, it turned out to be a challenging and daunting task. Indeed, each year the UN Secretary General issues an annual SDG Progress report.<sup>4</sup> The latest report is dated 2023 and it is somewhat worrying that regarding SDG 12.3, the report pointed out that:  
  
*“The percentage of food lost globally after harvest on farm, transport, storage, wholesale, and processing levels, usually attributed to structural inadequacies in the countries, is estimated at 13.2% in 2021, unchanged from 2016 and far from the target of halving post-harvest food losses by 2030.”<sup>5</sup>*
7. In this context, with regards to Mauritius, the Commission noted in its Issue Paper that it has neither a proper legal framework nor sufficient incentives in place in order to tackle the issue of food waste in its entirety.

---

<sup>3</sup> United Nations, the 17 Goals < <https://sdgs.un.org/goals>>

<sup>4</sup> 2023 Progress report on Sustainable Development Goals (Advance unedited version) on page 19/43 < <https://hlpf.un.org/sites/default/files/2023-04/SDG%20Progress%20Report%20Special%20Edition.pdf>>

<sup>5</sup> *Ibid*

### C. FOOD WASTE IN MAURITIUS

8. The Issue Paper noted the above with concern and it provided an in-depth analysis of food waste in Mauritius and considered to other jurisdictions around the globe in order to have a better understanding of how different legislation and innovative practices have been put forward to handle the issue of food waste.
9. It is estimated that, in Mauritius, 118,632 tonnes of food are wasted each year.<sup>6</sup> It is a large number considering the size and population of the island. This further implies that 225.7 kilos of food go to waste every minute in Mauritius, its impact on economic, social and environmental aspects is detrimental. During the last four financial years, expenditure for waste disposal has varied between Rs 683 million and Rs 797 million, giving an average annual cost of Rs 738.3 million.<sup>7</sup>
10. Statistically, it was estimated in 2019 that an alarming 8.3 % of the Mauritian population lacked regular access to adequate food, as compared to 6.8 % in 2018.<sup>8</sup> As noted above, food waste also contributes to greenhouse gas and waste sector in Mauritius record the second-largest emission of greenhouse gas (10.9 %)<sup>9</sup>. Furthermore, with the correct measures implemented it is estimated that with reduced food waste, it will be able to help the government of Mauritius to reach its objective of reducing the emission of greenhouse gas by 40 %.<sup>10</sup>
11. It is to be noted that the Issue Paper of the Commission aimed at examining relevant actions that were implemented in order to prevent food waste in other jurisdictions including the United Kingdom, France, the United States, Spain, Denmark, Italy, China, the Czech Republic and South Korea. After analysing the different jurisdictions, the Issue Paper

---

<sup>6</sup> United Nations Development Programme, ‘Food Waste Index Report’ (2021) 61

<sup>7</sup> Ministry of Environment, Solid Waste Management and Climate Change (Solid Waste Management Division), ‘Annual Report Financial Year 2020-21’ (2022) 40

<sup>8</sup> Food and Agriculture Organisation of the United Nations, ‘FAOSTAT-Mauritius’ <<https://www.fao.org/faostat/en/#country/137> >

<sup>9</sup> Mauritius Environment Statistics Unit, Ministry of Environment, Solid Waste Management and Climate Change, <[https://statsmauritius.govmu.org/Pages/Statistics/ESI/Environment/Env\\_Yr21.aspx](https://statsmauritius.govmu.org/Pages/Statistics/ESI/Environment/Env_Yr21.aspx) >

<sup>10</sup> UNDP, ‘Climate Promise – Mauritius’ <<https://climatepromise.undp.org/what-we-do/where-we-work/mauritius#:~:text=Key%20highlights%20from%20the%20NDC,initial%20NDC%20target%20of%2030%25>>

proposed potential legislative strategies and initiatives that may be implemented in Mauritius.

12. The proposed potential legislative strategies and initiatives concerned: (i) a law related to provision of doggy-bag, (ii) a law requiring mandatory donation of unsold food, (iii) a tax reduction which is proportionate to the amount of food donated by relevant businesses in the food industry, (iv) a law imposing a fee for food waste that is sent to the landfill; (v) a law concerning protection against food liability to food donors, and (vi) awareness campaigns and initiatives funded by the Government and relayed and supported by NGOs, businesses and individuals.

#### **D. CONSULTATION WITH STAKEHOLDERS**

13. Following submission of the Issue Paper on “Prevention of Food Waste in Mauritius: An environmental and economic Pandora’s box” [LRC, R&P 166, September 2022]<sup>11</sup> and pursuant to Section 6 of the Law Reform Commission Act 2005,<sup>12</sup> the Hon. Attorney General has requested the Commission to draft a Bill on “Prevention of Food Waste” based on the recommendations proposed therein by consulting relevant stakeholders.
14. In light of the above, the Commission has held consultations with several stakeholders, namely representatives from the public and private sector and Non-Governmental Organisations (NGOs), to discuss on the proposed recommendations mentioned in the Issue Paper and the draft bill on “Prevention of Food Waste”.
15. The stakeholders included representatives from: (i) FoodWise (ii) the Ministry of Agro-Industry and Food Security; (iii) Association of Hoteliers and Restaurants in Mauritius; (iv) the Ministry of Environment, Solid Waste Management and Climate Change; and (v) Restoring Faith in Humanity Association.
16. The stakeholders stated that some of the main causes of food waste in Mauritius are: (i) lateness in delivery of food items by ships; (ii) defects in packaging of food; (iii) wrong judgment of customers’ choice by food manufacturers; (iv) error in the number of orders; (v) customers ordering more food in restaurants than they can eat; and (vi) errors and confusion with regards to the labelling dates of food.
17. It was further mentioned by the stakeholders that (i) a lack of awareness concerning the consequences of food waste; (ii) illegal importation of food which is subsequently disposed of; (iii) high production by planters; (iv) a lack of knowledge as to how to preserve food;

---

<sup>11</sup> Law Reform Commission (2022). *Issue Paper on “Prevention of Food Waste in Mauritius: An environmental and economic Pandora’s box*. Reports and Papers: LRC, R&P 166, September 2022.

<sup>12</sup> Section 6 of the Law Reform Commission Act 2005:

(1) The Attorney-General may, at any time, request the Commission to examine any aspect of the law of Mauritius, and the Commission shall review that aspect of the law accordingly and report to the Attorney-General thereon with its recommendations.

(2) The Commission shall report to the Attorney-General on the results of any review it carries out and shall include in the report such recommendation as it deems necessary.

and (v) surplus cooking by hotels and restaurants, lead to high levels of food waste in Mauritius.

18. Taking into consideration the devastating effects of food waste, some stakeholders proposed that food donation should be encouraged in Mauritius by implementing a law that would protect food donors from liability and by establishing clarified guidance on food safety for donation. Moreover, it was suggested that there should be tax deductions proportionate to the amount of food donated, and businesses should be banned from throwing away edible food.
19. In addition, landfill fee, segregation of different types of waste, training to planters, juice with “ugly” vegetables and fruits, and solar dryer to dry vegetables were among the recommended measures by the stakeholders in order to prevent food waste. Furthermore, the stakeholders believed that there should be more awareness raising campaigns in order to educate Mauritians about the consequences of food waste and about expiring dates of products.
20. Certain stakeholders also proposed that the government should allocate funds to finance:  
(i) national awareness campaigns; (ii) studies on food waste; (iii) food waste awareness programs in schools; (iv) costs of donating agricultural products to charities; (v) food recycling infrastructure such as composting; and (vi) storage capacity of food donors.
21. Besides, a handful of stakeholders suggested that organisations in the private sector such as supermarkets can create “imperfect” product line in order to reduce food waste and relevant private institutions should train their staff, upcycle byproducts, and track food waste and its source.
22. During the consultations, the relevant recommendations by the Commission to prevent food waste in Mauritius were explained to the stakeholders and were carefully analysed by the latter. They expressed their positive views pertaining to the recommendations and were therefore favourable to the idea of implementing a legislation consisting of the relevant recommendations. Taking into account the views of the stakeholders, the draft bill was subsequently written.

## **E. DRAFT BILL ON “PREVENTION OF FOOD WASTE”**

23. The purpose of the bill is to implement a legal framework in order to prevent food waste in Mauritius. The bill is an inspiration obtained from analysing various laws regarding food waste issue in several jurisdictions as pointed out above. Enacting the bill would signify a significant stride and exhibit a resolute dedication to decreasing food waste in Mauritius. It would also underscore our determination to accomplish Sustainable Development Goal 12.3, as set forth by the United Nations, as previously discussed.

## **F. AIMS OF THE DRAFT BILL**

### **(i) REDUCTION OF ENVIRONMENTAL IMPACT**

24. Food waste poses a substantial environmental burden on every country, including Mauritius.<sup>13</sup> Throughout the entire food supply chain, from production to consumption and disposal, vast amounts of resources such as water, energy, and land are utilised.<sup>14</sup> When food is wasted, these resources are squandered, leading to unnecessary greenhouse gas emissions, deforestation, water scarcity, and biodiversity loss.<sup>15</sup> By enacting the proposed bill, Mauritius can implement measures to reduce food waste, thereby lessening its ecological footprint and contributing to global efforts for environmental conservation.

### **(ii) MITIGATION OF ECONOMIC LOSSES**

25. The economic implications of food waste in Mauritius cannot be underestimated. The country’s economy heavily relies on agriculture, tourism, and exports, all of which are directly affected by food waste.<sup>16</sup> Farmers suffer financial losses due to overproduction and

---

<sup>13</sup> Government Information System, “Minister Gobin highlights importance to address food wastage at all levels” < <https://gis.govmu.org/News/SitePages/Minister-Gobin-highlights-importance-to-address-food-wastage-at-all-levels.aspx> > 08 April 2022

<sup>14</sup> UN, environment programme “Why the global fight to tackle food waste has only just begun” < <https://www.unep.org/news-and-stories/story/why-global-fight-tackle-food-waste-has-only-just-begun> >

<sup>15</sup> *Ibid*

<sup>16</sup> Organisation for Economic Co-operation and Development (OECD), “Mauritius” < <https://www.oecd.org/dev/36741476.pdf> >

rejection of imperfect produce,<sup>17</sup> while businesses in the hospitality and food service sectors experience reduced profitability and increased operational costs.<sup>18</sup> The draft bill is focused on curbing food waste which can help optimise resource allocation, improve supply chain efficiency, and foster economic resilience in Mauritius.

(iii) FOOD SECURITY AND HUNGER ALLEVIATION

26. Paradoxically, and ironically, while food is being wasted, a significant proportion of the population of Mauritius still faces food insecurity and malnutrition, as statistically pointed above. By implementing laws that address food waste, Food business operators<sup>19</sup> can redirect surplus food to those in need through efficient distribution channels, partnerships with charitable organisations, and the establishment of food recovery programs. Reducing food waste not only enhances food security but also alleviates poverty, improving the overall well-being and social cohesion of the nation.<sup>20</sup>

(iv) CONSUMER AWARENESS AND BEHAVIOURAL CHANGE

27. A law focusing on addressing the issue of food waste can serve as a catalyst for promoting awareness and behavioural change among consumers in Mauritius. Educational campaigns can foster a culture of responsible consumption, encouraging individuals to value and utilise food more efficiently. By instilling a sense of responsibility, citizens can become active participants in the fight against food waste, cultivating sustainable habits that transcend legislative measures.

---

<sup>17</sup> Garrone, P. et al. (2014) Opening the black box of food waste reduction, Food Policy. < <https://www.sciencedirect.com/science/article/abs/pii/S0306919214000542> >

<sup>18</sup> Marta Machado, “Food Waste prevention in the hospitality sector” < [https://food.ec.europa.eu/system/files/2021-03/fw\\_eu-platform\\_20210225\\_sub-ai\\_pres-08.pdf](https://food.ec.europa.eu/system/files/2021-03/fw_eu-platform_20210225_sub-ai_pres-08.pdf) >

<sup>19</sup> Draft Prevention of Food Waste Bill 2023, section 2 “interpretation”: “food business operator” includes hypermarkets and supermarkets with a sale surface of more than 250 square metres

<sup>20</sup> Papargyropoulou, E., Lozano, R. JK et al. “The food waste hierarchy as a framework for the management of food surplus and food waste.” <https://eprints.whiterose.ac.uk/79194/1/accepted%2520manuscript.pdf>

## CONCLUSION

28. Food waste is a sociological, economic, and environmental issue of global concern, and its implications are particularly significant in small island nations like Mauritius. The size of a country and the limitations of its resources necessitate a more mindful and efficient approach to resource management. In this context, Durkheim's theory of functionalism could provide insight. This theory emphasises the interdependence of the systems within a society to maintain equilibrium. In the case of Mauritius, wasting food disrupts this balance by straining limited resources such as land for agriculture, freshwater for irrigation, and energy for food production and distribution. This inequitable distribution and utilisation of resources may lead to social unrest, disrupting the social order Durkheim underscores as crucial for societal functioning.
29. The prevention of food waste also has a profound bearing on social justice and inequality.<sup>21</sup> While a significant amount of food is wasted, there still exist pockets of the Mauritian population that experience food insecurity. It is an incongruity that underscores the disparity between the 'haves' and the 'have-nots'. When excess food in supermarkets and households ends up in the landfill, it contrasts starkly with those who struggle to access and afford enough nutritious food. The elimination of food waste thus becomes a step towards a more equitable society by potentially making more food available to those in need, reducing food prices, and ensuring a fairer distribution of societal resources.
30. In Mauritius, a national campaign against food waste could help shape social norms and attitudes about wasting food, making it socially unacceptable.<sup>22</sup> This campaign could be particularly effective if it includes education about the environmental and economic impacts of food waste, as well as practical information on how to prevent food waste at the household level. It could also involve working with food businesses and policy-makers to

---

<sup>21</sup> Drawing from Marx's theory of class conflict, the problem of food waste can be seen as a manifestation of larger systemic issues within capitalist societies.

<sup>22</sup> From a sociological perspective, the act of wasting food can also be seen through the lens of the Theory of Planned Behavior (Ajzen, 1991), which posits that attitudes, subjective norms, and perceived behavioural control influence behavior.

create environments where reducing food waste is the norm and is easy for individuals and businesses to achieve. By tackling food waste, Mauritius has the opportunity to cultivate a more sustainable, equitable, and socially cohesive society.

31. Moreover, food waste poses a significant environmental challenge, particularly as our global population continues to grow and the demand for food production rises. A substantial amount of natural resources, such as land, water, and energy, are utilised in the production, processing, and distribution of food. According to the Food and Agriculture Organization of the United Nations, about one third of all food produced worldwide is lost or wasted. This means that around 33% of all the resources used in agriculture are in effect being utilised in vain. In small countries like Mauritius, where resources are inherently limited due to geographical constraints, the environmental impact of such wastage is particularly pronounced. The prevention of food waste can help ensure more efficient and sustainable use of resources, contributing to the conservation of biodiversity, reduction in deforestation, and preservation of freshwater resources.
32. The waste of food also leads to considerable greenhouse gas emissions, contributing significantly to global climate change. When organic matter such as food waste decomposes in landfill sites, it produces methane - a greenhouse gas that is approximately 28 times more potent than carbon dioxide in terms of its global warming potential. A report by the Intergovernmental Panel on Climate Change (IPCC) indicates that reducing food waste is one of the most effective ways to mitigate climate change. By reducing food waste, Mauritius would be taking a significant step towards meeting its obligations under the Paris Agreement to reduce greenhouse gas emissions, demonstrating climate leadership within the region.
33. Besides, the management of food waste imposes considerable pressure on waste management systems. In Mauritius, like many countries, landfill space is finite. The continuous accumulation of food waste takes up valuable landfill space and contributes to problems such as leachate and odours, which can have detrimental impacts on local ecosystems and the quality of life for nearby communities. In addition, the conventional approach to food waste disposal does not recover any of the inherent value in the waste,

such as nutrients or energy. Therefore, by reducing and better managing food waste through practices such as composting or anaerobic digestion, it would be possible not only to decrease the pressures on waste management systems but also to recycle nutrients back into the soil and generate renewable energy, contributing to a circular economy.

34. Considering the adverse effects of food waste mentioned above, the aim of the draft bill by the Commission on Prevention of Food Waste is to establish a legal framework to curb the problem of food waste in Mauritius. It highlights the duties and obligations of food business operators, food service businesses, waste generators, local authorities and charitable organisations towards the reduction of food waste. The more so, the draft bill provides incentives in the form of tax relief to the food business operators to encourage them to take initiatives towards reduction of food waste through food donation while safeguarding them from liabilities. The protection from liabilities is also extended to charitable organisations engaged in the food donation process. However, the said draft Bill imposes several sanctions with regards to food waste whereby any individual or body corporate who is in breach of the provisions mentioned therein shall commit an offence and be liable, upon conviction, to a fine and imprisonment. Furthermore, it is to be noted that the promulgation of the draft Bill will entail consequential amendments to other existing Acts and regulations for it to be properly effective. The draft Bill aims to minimise the social, economic and environmental costs associated with food waste and thereby achieving sustainable development goals.

**ANNEXE**

**THE PREVENTION OF FOOD WASTE BILL**

(No. .... of 2023)

**Explanatory Memorandum**

The main objective of this Bill is to ensure the reduction of the environmental, social and economic costs associated with food waste by providing a regulatory framework that would oblige, educate, and encourage different stakeholders of the society to prevent food waste.

2. The Bill, accordingly, *inter alia*, provides for –

- (a) the obligation of food service businesses to give single-use biodegradable containers to their customers to take away leftover food;
- (b) the type of bag, that would be available at a price, and that every waste generator will have to use to place their food waste in;
- (c) the duties and obligations of food business operators to donate food that is still fit for human consumption;
- (d) rules concerning tax credit to food business operators that donate food;
- (e) liability protection for food donation; and
- (f) the inclusion of measures related to prevention of food waste in the National Solid Waste Management Strategy and Action Plan.

3. The Bill further provides for matters connected and incidental thereto.

.....  
*Minister of .....*

..... 2023

## THE PREVENTION OF FOOD WASTE BILL

(No. .... of 2023)

### ARRANGEMENTS OF CLAUSES

#### *Clause*

#### **PART I – PRELIMINARY**

1. Short title
2. Interpretation
3. Application of Act
4. Objects of the Act

#### **PART II – OBLIGATIONS OF FOOD SERVICE BUSINESSES**

5. Provision of single-use biodegradable containers
6. Sign Board
7. Containers brought by customers

#### **PART III – MANAGEMENT OF FOOD WASTE**

8. Duty of waste generators
9. Specification and price of biodegradable or compostable plastic bags
10. Availability of biodegradable or compostable plastic bags
11. Duty of waste management operators, local authorities and waste carriers

#### **PART IV – FOOD DONATION**

12. Duty of food business operators
13. Obligation to donate unsold food
14. Report
15. Entry and exit register

#### **PART V – TAX RELIEF**

16. Tax credit to food business operators
17. Statement of donation received

#### **PART VI – PROTECTION FROM LIABILITY**

18. Liability of food business operators
19. Liability of charitable organisations
20. Gross negligence or intentional misconduct

## **PART VII – OFFENCES**

21. Breach of this Act

## **PART VIII – MISCELLANEOUS PROVISIONS**

22. Regulations
23. Consequential amendments
24. Commencement

## **A BILL**

**To provide for measures necessary to prevent food waste**

ENACTED by the Parliament of Mauritius, as follows –

### **PART I – PRELIMINARY**

#### **1. Short title**

This Act may be cited as the Prevention of Food Waste Act 2023.

#### **2. Interpretation**

In this Act –

“authority” means the Mauritius Revenue Authority established under the Mauritius Revenue Authority Act 2004;

“best-before date” has the same meaning as in the Food Regulations 1999;

“biodegradable plastic bag” has the same meaning as in the Environment Protection (Banning of Plastic Bags) Regulations 2020;

“business registration number” means the number allocated by the Registrar of Businesses under section 8(1) of the Business Registration Act;

“charitable foundation” has the same meaning as in the Foundations Act 2012;

“charitable institution” means an entity which is approved by the Director-General under section 49D of the Income Tax Act 1995;

“charitable organisation” includes –

- (a) a charitable institution approved by the Director-General under section 49D of the Income Tax Act 1995, or registered under the Registration of Associations Act;
- (b) a charitable trust or
- (c) a charitable foundation;

“charitable trust” has the same meaning as in the Trusts Act 2001;

“compostable plastic bag” has the same meaning as in the Environment Protection (Banning of Plastic Bags) Regulations 2020;

“Director-General” means the Director-General of the Authority;

“donate” means to give food without requiring anything of monetary value from the recipient;

“donation” means to give food free of charge;

“expiry date” has the same meaning as in the Food Regulations 1999;

“food” has the same meaning as in the Food Act 2022;

“free of charge” means without payment of money or other form of monetary-like consideration, including, but not limited to, gift cards or reward points;

“food business operator” includes hypermarkets and supermarkets with a sale surface of more than 250 square metres;

“food service business” means any premises selling or providing ready, prepared or cooked food for consumption on or off the premises;

“food waste” means any food intended for human consumption that is lost, discarded or degraded during production, transportation, storage, processing, retailing, or consumption;

"gross negligence" means voluntary and conscious conduct (including a failure to act) by a person who, at the time of the conduct, knew or ought to have known that the conduct was likely to be harmful to the health or well-being of another person.

"income year", in relation to the income of any person, means the year in which that income is derived by him;

"intentional misconduct" means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person;

"local authority" has the same meaning as in the Local Government Act;

"market value", in relation to any food, means the current price at which a food can be purchased or sold;

"Minister" means the Minister to whom responsibility for the subject of food waste is assigned;

"needy person" means the most deprived individual of food products;

"restaurant" includes any establishment, regardless of seating capacity, where food and/or beverages are ready, prepared or cooked and sold to individuals for consumption on the premises;

"single-use biodegradable container" means -  
(a) receptacle of any shape, with or without lid, or  
(b) wrapper,  
which is manufactured from any material other than plastic, and intended to be used only once in order to contain food;

"unsold food" includes food -

- (a) with deformed packaging;
- (b) having labelling irregularities which are not attributable to the information relating to the date of expiry date or to substances or products that cause allergies or intolerance;
- (c) indicating elapsed best-before date;
- (d) withdrawn from sale due to non-compliance with company requirements of sale;

- (e) that have been left over from promotional activities;
- (f) close to expiry date; or
- (g) not supplied due to lack of demand;

“waste generator” has the same meaning as in the Waste Management and Resource Recovery Act;

“waste management facility” has the same meaning as in the Waste Management and Resource Recovery Act;

“waste management operator” means the operator of a waste management facility

“waste carrier” has the same meaning as in the Waste Management and Resource Recovery Act.

### **3. Application of the Act**

- (1) This Act shall bind the State.
- (2) This Act shall be in addition to, and not in derogation from the Waste Management and Resource Recovery Act 2023.

### **4. Object of the Act**

The object of this Act is to ensure the reduction of the environmental, social and economic costs associated with food waste.

## **PART II – OBLIGATIONS OF FOOD SERVICE BUSINESSES**

### **5. Provision of single-use biodegradable containers**

- (1) Food service businesses shall make available to their customers, upon request, single-use biodegradable containers for taking away leftover food or beverages not consumed on the premises.

(2) The containers made available, under subsection (1), shall be free of charge.

#### **6. Sign board**

(1) Every food service business shall place a sign board in a conspicuous spot within their premises to inform their customers that they may request single-use biodegradable containers for taking away food or beverages not consumed on the premises.

(2) The sign board under subsection (1) shall be of such shape, size, and colour that shall be visible to customers present on the premises of the food service business.

#### **7. Containers brought by customers**

(1) Subject to subsection (2), single-use biodegradable containers can be brought by customers of food service businesses.

(2) The customers shall be responsible for the hygiene and suitability of the containers.

(3) The food service business may refuse to serve the consumer if the container brought by the consumer is visibly dirty or unsuitable.

### **PART III – MANAGEMENT OF FOOD WASTE**

#### **8. Duty of Waste Generators**

Notwithstanding section 18 of the Waste Management and Resource Recovery Act, every waste generator shall place their food waste meant for collection by the local authority solely in biodegradable or compostable plastic bags that shall be designed in accordance with section 9.

#### **9. Specification and price of biodegradable or compostable plastic bags**

(1) The biodegradable or compostable plastic bags referred to in section 8 shall be distinctively coloured and shall come in different sizes for different prices, as the Minister shall, by way of regulations, prescribe.

(2) The price of the biodegradable or compostable plastic bags shall include the cost of collection, transportation and disposal of the food waste.

**10. Availability of biodegradable or compostable plastic bags**

No person, other than those authorised by the Minister, shall produce or manufacture, import, distribute, or sell biodegradable or compostable plastic bags.

**11. Duty of waste management operators, local authorities and waste carriers**

No waste management operator, local authority, or waste carrier shall collect, transport, or dispose food waste in a waste management facility that is in bags other than those prescribed.

**PART IV – FOOD DONATION**

**12. Duty of food business operators**

Food business operators shall not throw or deliberately destroy unsold food that is still fit for human consumption.

**13. Obligation to donate unsold food**

(1) Food business operators shall donate unsold, but still consumable, food to charitable organisations for ultimate distribution to needy persons.

(2) The unsold food donated by food business operators and distributed by charitable organisations under subsection (1) shall be free of charge.

(3) Charitable organisations shall be responsible for maintaining the hygiene of unsold food that they received from food business operators until the time of distribution.

**14. Report by food business operator**

(1) On donating unsold food to a charitable organisation, the food business operator shall create and finalise a report with the charitable organisation in question, in accordance with subsection (2).

(2) The report under subsection (1) should include –

(a) the name, and address of the food business operator and charitable organisation involved;

(b) the market value of the unsold food that the charitable organisation received; and

(c) other related matters as may be prescribed.

**15. Entry and exit register**

Charitable organisations that receive unsold food from food business operators shall electronically or manually register the entry and exit of food received and delivered.

**PART V – TAX RELIEF**

**16. Tax credit to food business operators**

(1) Subject to this section and any enactment, food business operators shall be allowed a tax credit by way of deduction from the income tax otherwise payable by it of an amount equivalent to the market value of the food donated to a charitable organisation, in accordance with Part IV.

(2) No deduction shall be allowed under subsection (1) in an income year where, in respect of that income year, the charitable organisation has failed to submit a return under section 17, unless the food business operator making the donation provides evidence that such donation has been made.

(3) Subject to subsection (4), where the deduction under subsection (1) in respect of an income year exceeds the amount of income tax otherwise payable for that income year, the excess may be carried forward to the following income year.

(4) No deduction under subsection (3) in respect of the market value of the food donated shall be carried forward beyond a period of 5 consecutive income years starting from the income year in which the donation was made.

(5) Where a tax credit under subsection (1) has for any income year been allowed and within 5 years following that income year the food business operator ceases to be engaged wholly or mainly in the qualifying activity, the tax credit shall be withdrawn and any tax credit claimed shall be deemed to be income tax payable by the food business operator to the Director-General in the income year in which the cessation takes place.

#### **17. Statement of donation received**

Every charitable organisation that receives unsold food from any food business operator shall, with respect to every income year, on or before 15 August, immediately following that income year, submit to the Director-General, electronically, a statement, in such form and manner as may be determined by him, giving the details of the donations received and stating –

- (a) the Business Registration Number, and other relevant details of the food business operator giving the donation;
- (b) the market value of the unsold food received from the supermarkets; and
- (c) any other particulars as may be required by the Director-General.

### **PART VI – PROTECTION FROM LIABILITY**

#### **18. Liability of food business operators**

No food business operators shall be subject to civil or criminal liability arising from the nature, age, packaging, or condition of unsold food that

they give in good faith to a charitable organisation for ultimate distribution to needy persons free of charge.

**19. Liability of charitable organisation**

No charitable organisation shall be subject to civil or criminal liability arising from the nature, age, packaging, or condition of unsold food that the charitable organisation received as a donation in good faith from a food business operator for ultimate distribution to needy persons free of charge.

**20. Gross negligence or Intentional misconduct**

Sections 18 and 19 shall not apply to an injury to or death of an ultimate user or recipient of the unsold food that results from an act or omission of the food business operator, or charitable organisation, as applicable, constituting gross negligence or intentional misconduct.

**PART VII – OFFENCES**

**21. Breach of this Act**

- (1) Any person who contravenes any provision of this Act or any regulations made thereunder shall commit an offence.
- (2) Unless it is otherwise specifically provided, any person who commits an offence under this Act or any regulations made thereunder shall –
  - (i) on first conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years, and in case of a corporate body, to a fine of not less than 200,000 rupees;
  - (ii) on a second or subsequent conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 8 years, and in case of a corporate body, to a fine of not less than 500,000 rupees.

**PART VIII – MISCELLANEOUS PROVISIONS**

## **22. Regulations**

- (1) The Minister may make such regulations as he thinks fit for the purpose of this Act.
- (2) Without prejudice to the generality of his power under subsection (1), the Minister may make regulations for prescribing the specification and price of biodegradable or compostable plastic bags.

## **23. Consequential amendments**

### **(1) Income Tax Act**

The Income Tax Act is amended –

- (a) in section 2, by inserting, in the appropriate alphabetical order, the following new definitions –

“food business operator” includes hypermarkets and supermarkets with a sale surface of more than 250 square metres;

“food” has the same meaning as in the Food Act;

“unsold food” has the same meaning as in the Prevention of Food Waste Act;

- (b) by inserting, after section 67P, the following new section –

### **67Q. Donation of unsold food to charitable institutions**

- (1) Subject to subsection (2) and Part IV of the Prevention of Food Waste Act, where a food business operator donates unsold food to a charitable organisation, it shall be allowed a tax credit by way of deduction from the income tax otherwise payable by it of an amount equivalent to the market value of the food donated in that income year.

(2) No deduction shall be allowed under this section in an income year where, in respect of that income year, the charitable organisation has failed to submit a return in accordance with section 17 of the Prevention of Food Waste Act, unless the food business operator making the donation provides evidence that such donation has been made.

## **(2) Waste Management and Resource Recovery Act**

The Waste Management and Resource Recovery Act is amended –

(a) in section 2, by inserting, in the appropriate alphabetical order, the following new definitions –

“food” has the same meaning as in the Food Act 2022;

“food business operator” includes hypermarkets and supermarkets with a sale surface of more than 250 square metres;

“food waste”-

(a) has the same meaning as in the Prevention of Food Waste Act;  
and

(b) includes household waste and commercial waste;

“charitable organisation” has the same meaning as in the Prevention of Food Waste Act;

(b) in section 16(4), by adding, after paragraph (p), the following new paragraph-

(q) measures necessary –

(i) to raise awareness on the negative consequences of food waste;

(ii) to facilitate the storage and distribution of food that charitable organisations get from food business operators in accordance with Part IV of the Prevention of Food Waste Act; and

(iii) to enable studies on food waste.

(c) in section 23, by inserting, after subsection (4), the following new subsection –

(5) This section shall be subject to Part III of the Prevention of Food Waste Act

(d) in section 24, by inserting, after subsection (3), the following new subsection –

(4) This section shall be subject to Part III of the Prevention of Food Waste Act.

#### **24. Commencement**

(1) Subject to subsection (2), this Act shall come into operation on a date fixed by proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.